IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT:-

THE HONOURABLE THE CHIEF JUSTICE MR.H.L.DATTU
&
THE HONOURABLE MR. JUSTICE K.T.SANKARAN

MONDAY, THE 1ST OCTOBER 2007 / 9TH ASWINA 1929

W.A.No.2367 of 2007

AGAINST THE JUDGEMENT IN O.P.NO.15061/2003 DATED 20/06/2007

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APPELLANT: PETITIONER:-

VELIMUKKU SERVICE CO-OPERATIVE BANK LTD., NO.7725,
REPRESENTED BY ITS SECRETARY,
VELIMUKKU POST,
MALAPPURAM DISTRICT.

BY ADV. SRI.R.RAMADAS

RESPONDENTS: RESPONDENTS:-

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1. THE ASSISTANT REGISTRAR OF CO-OPERATIVE SOCIETIES(GENERAL), TIRUR.

2. P.SAKEENA,
D/O P.ABDULRAHIMAN,
PUTOORKATTU HOUSE,
P.O.VELIMUKKU.

R1 BY SENIOR GOVERNMENT PLEADER SMT.K.MEERA.
R2 BY ADV. SRI.BABU S.NAIR.

THIS WRIT APPEAL HAVING COME UP FOR ADMISSION ON 01/10/2007, ALONG WITH W.A.NOS.2373/2007 & 2374/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:-

H.L.Dattu, C.J. & K.T.Sankaran, J.

W.A.Nos.2367 of 2007, 2373 of 2007 and 2374 of 2007

Dated, this the 1st day of October, 2007

JUDGMENT

H.L.Dattu,C.J.

In all these appeals, Velimukku Service Co-operative Bank is the appellant. The Bank calls in question the correctness or otherwise of the orders passed by the learned Single Judge in O.P.Nos.15039, 15061 and 15122 dated 20th June, 2007. By the impugned order, the learned Single Judge has rejected the Original Petitions filed by the Bank.

(2) The brief facts are: Respondent No.2 in all these Original Petitions are depositors with the appellant Bank. Since the deposits made by them were not returned within a specified time, the depositors have filed arbitration proceedings before the Arbitrator.

(3) The Bank, after service of notice, has appeared before the Arbitrator and also has filed applications in those arbitration proceedings to implead the previous Secretary of the Bank, on the ground that the said Secretary was responsible for misappropriation of the Bank funds, which include the funds deposited by the depositors. The applications so filed by the Bank were rejected by the Arbitrator while passing an order in exercise of his powers under Section 69 of the Kerala Co-operative Societies Act, 1969. Aggrieved by the said order of the Arbitrator, the Bank was before this Court in the aforesaid Original Petitions.

(4) The learned Single Judge, in our opinion, rightly has rejected the Original Petitions.

(5) The lis is between the depositors and the Bank. The claim of the depositors is that the amounts deposited by them are not refunded by the Bank in spite of a claim made by the depositors. Therefore, they have raised a dispute before the Arbitrator. In the said proceedings, in our view, the previous Secretary of the Bank is neither a necessary party nor a proper party to the proceedings. Keeping that aspect of the matter in view, the Arbitrator has rightly rejected the application filed by the Bank.

(6) As rightly observed by the learned Single Judge, if the Bank has any grievance with regard to the actions/inaction of its previous Secretary, it has to file appropriate dispute before the appropriate authorities. In the proceedings filed by the depositors, the Bank cannot be allowed to implead the previous Secretary of the Bank. In that view of the matter, we are of the firm opinion that the learned Single Judge has not committed any error, which would call for our interference. Accordingly, the appeals require to be rejected and they are rejected.

Ordered accordingly.

H.L.Dattu
Chief Justice

K.T.Sankaran
Judge

vku/-